REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-10, 21-30, and 44-46 are presently active in this case. Claims 11-20, and 31-43 were cancelled in response to a restriction. The present Amendment amends Claims 1-10, 21-30, and 44-46, without introducing any new matter.

The outstanding Office Action rejected Claims 1-10 under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Claims 21-30 and 44-46 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-10 and 21-30 were rejected under 35 U.S.C. § 103 as being unpatentable over Flagg (U.S. Patent No. 6,456,979) in view of Moller et al. (BMJ medical journal publication, 1995, vol. 310, pp. 1500-1501, hereinafter "Moller".)

In response to the rejection of Clams 1-10 under 35 U.S.C. § 101, independent Claim 1 is amended to recite that the method is performed on a computer that has a hardware processor, and to recite that the steps of determining, dividing, calculating, and comparing, are performed on the processor. Dependent Claims 2-10 are amended to correct some minor formal issues. Moreover, Applicants' independent Claim 1 is amended to recite that the step of identifying is made by using an input device of the processor. These features find non-limiting support in Applicants' disclosure as originally filed, for example at page 14, lines 17-24. No new matter has been added. The recent *In re Bilski* decision requires that a claimed software method be either (1) tied to a particular machine or apparatus, or (2) able to transform particular article into a different state or thing. 545 F.3d at 979. *See also Guidance for Examining Process Claims in view of In re Bilski*, Memorandum from John J. Love, Deputy Commissioner for Patent Examination Policy, (Jan. 7, 2009). Because the

method steps of independent Claim 1 are now tied to a particular machine, Applicants respectfully traverse the rejection under 35 U.S.C. § 101, and request reconsideration thereof.

In addition, independent Claim 1 is amended to recite that correlated risk ratios are calculated, between at least two of the risk classes that are identified in said step of identifying to determine a dependence between the at least two different risk classes. These features also find non-limiting support in Applicants' disclosure as originally filed, for example in the specification at page 6, lines 3-15, and in Figures 1-2, reference numerals 16, 38. No new matter has been added.

Moreover, in light of the rejections of Claims 21-30 and 44-46 under 35 U.S.C. § 112, second paragraph, these claims are amended to be directed to a system having at least one hardware processor, and to recite respective units that perform certain functions. These features find non-limiting support in Applicants' disclosure, for example in the specification at page 14, lines 17-24, and shown in the respective Figures. Moreover, the guidelines provided by M.P.E.P. § 2106-IV-B set forth that

> a claimed invention may be a combination of devices that appear to be directed to a machine and one or more steps of the functions performed by the machine. Such instances of mixed attributes, although potentially confusing as to which category of patentable subject matter the claim belongs, does not affect the analysis to be performed by USPTO personnel. Note that ***an apparatus claim with process steps is not classified as a "hybrid" claim; instead, it is simply an apparatus claim including functional limitations***. See, e.g., *R.A.C.C. Indus. v. Stun-Tech, Inc.*, 178 F.3d 1309 (Fed. Cir. 1998) (unpublished).

(M.P.E.P. § 2106-IV-B, emphasis added, portions omitted.) Accordingly, it is believe that Claims 21-30 and 44-46 are definite, and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

In response to the rejection of Claims 1-10 under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of this rejection and traverses the rejection, as discussed next.

Briefly summarizing, Applicants' independent Claim 1 is directed to a method of characterizing relative risks associated with a plurality of financial products performed on a computer having a processor. The method includes the steps of identifying one or more risk classes associated with the plurality of financial products by using an input device of the computer, determining, for each of the risk classes, an expected occurrence rate by the processor, dividing the expected occurrence rates determined by said step of determining by an average rate by the processor to determine a relative risk ratio for each of the risk classes, ***calculating correlated risk ratios*** between at least two of the risk classes that are identified in said step of identifying to determine a dependence between the at least two different risk classes, and comparing the relative risk ratios ***and the correlated risk ratios*** by the processor to characterize the relative risks associated with the plurality of products.

Turning now to the applied references, Flagg is directed to a method of evaluating a permanent life insurance policy. (Flagg, Abstract). In Flagg's system, a benchmark costs of insurance (COI) value is compared to a illustrated COI to establish pricing of the insurance policy. (Flagg, Fig. 1, col. 23, ll. 5-22.) Flagg explains that first gender-based risk groups are determined, and then a special risk class is identifying among the chosen gender-based risk group. (Flagg, col. 23, ll. 36-41.) Subsequently, the effective COI is calculated, depending on the customer type. (Flagg, col. 23, ll. 54-60, Fig. 3.) However, Applicants' independent Claim 1 requires that the correlated risk ratios are calculated, between at least two of the risk classes, and then the relative risk ratios *and* the correlated risk ratios are compared to characterize the relative risks associated with the plurality of products. Such features are not taught by the cited passages of Flagg.

The reference Moller, used by the pending Office Action to form the 35 U.S.C. 103(a) rejection, fails to remedy the deficiencies of Flagg, even if we assume that the combination of these references is proper. Moller is an article that discusses the occurrence of different cancers in patients that have Parkinson's disease. (Flagg, Title.) Moller shows a list of different types of cancer, and the number of observed cases, and then discloses a relative risk of that a person that has Parkinson's disease may have a specified cancer. (Moller, Table.) However, Moller is silent on the calculation of any correlated risk values between two of the risk classes, and the use of these correlated risk values to characterize a product, as required by Applicants' independent Claim 1.

Therefore, even if the combination of Flagg and Moller is assumed to be proper, the cited passages of the combination fails to teach every element of Applicants' Claim 1. Accordingly, Applicants respectfully traverse, and request reconsideration of this rejection based on these references.

Independent Claim 21 recite features that are analogous to the features recited in independent Claim 1, but directed to a system. Accordingly, for the reasons stated above for the patentability of Claim 1, Applicants respectfully submit that the rejections of Claim 21, and the rejections of all associated dependent claims, are also believed to be overcome in view of the arguments regarding independent Claim 1.

Regarding the rejection of Applicants' independent Claim 44, this claim has been amended to recite that a third determining unit excludes the individual risk form the risk class, in a case where the comparing unit has determined that the class ratio is not acceptable. These features find non-limiting support in Applicants' disclosure as originally filed, for example in the specification at page 11, lines 1-14. No new matter has been added. It is respectfully submitted that these features are not taught by neither Flagg nor Moller, taken in any proper combination.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-10, 21-30, and 44-46 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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